

REMARKS

Claims 1-13 are currently pending in this application, as amended. By the present amendment, claims 1 and 10 have been amended as noted. Applicant respectfully submits that no new matter has been introduced into the application by these amendments.

Claim Rejections – 35 U.S.C. §102(b)

In the Action, claims 1-13 were rejected under 35 U.S.C. §102(b) as anticipated by U.S. 4,976,547 to Hisanaga. Applicant respectfully traverses this rejection. While the Action notes that the claims require a "device" but do not recite any other structure and only recite what the device is "for" rather than the device having any structural elements, this ignores the preliminary amendment wherein claim 1 recites "device for mixing, homogenizing, ... comprising a lid (10) that can be hermetically sealed to the test vessel,..." In order to avoid any potential confusion applicant has amended claim 1 to repeat the term "the device" before "comprising" so that there can be no issue that the limitations following the term "comprising" refer to the claimed device.

The device of the present invention specifically includes a mixing element that is fixed on the lid (10) of a laboratory test vessel which comprises a stirrer element (30) that is a hollow cylinder (53) and is provided with a central sealing cap (32). The stirrer element can be placed into the test vessel and the stirrer element is connected to a coupling piece (50). The stirrer element, which rotates about a longitudinal axis of the laboratory test vessel, is provided with cutting and/or crushing elements situated directly adjacent to cutting edges on a retainer sleeve (40).

The statement in the Action that "it is understood that none of the claims require the vessel, lid, cutting elements, etc. for which the device is intended for use with is a clear misinterpretation as the entire specification is directed to the lid having these features which can be sealed to the test vessel. The language in the claim following the term "comprising" as provided in the preliminary amendment and substitute specification should specifically have been considered, and the term "for" in the claim preamble is only describing the overall usage of the device for mixing homogenizing, extracting or slurring materials. All of the structural elements were positively recited after the term "comprising" and must be considered.

With respect to the cited reference Hisanaga, this reference is directed to a continuous two-liquid type mixer which allows liquid to flow into and out of the device. Hisanaga does not provide a lid that can be hermetically sealed to a vessel with a stirrer element provided in the lid for processing the material that can be placed into the vessel with the stirrer element being connected to a coupling piece and the stirrer element being provided with cutting and/or crushing elements situated directly adjacent to cutting edges on a retainer sleeve wherein stirrer element is a hollow cylinder and is provided with a central sealing cap. Accordingly, withdrawal of the Section 102 rejection of claim 1 is requested.

With respect to claim 2, claim 2 depends from claim 1 and further recites the central sealing cap is a membrane that can be pierced or broken through. This is wholly absent from Hisanaga.

Claim 3 depends from claim 1 and should be similarly patentable.

With respect to claim 4, this claim depends from claim 1 and further defines the retainer sleeve as being provided as an auxiliary element that has an inner

opening and can be pushed on or removed. No such auxiliary retainer sleeve is provided in Hisanaga.

Claim 5 depends from claim 1 and further recites that the lid is a disposable lid and comprises a screw closure or a snap closure that is complementary to a corresponding element on the laboratory test vessel. As no lid or closure is provided by Hisanaga, claim 5 should also be patentable over this reference.

Claims 6 and 7 depend from claim 1 and should be similarly patentable over Hisanaga.

Claim 8 depends from claim 1 and further recites a hermetic seal provided on the lid between an interior of the laboratory test vessel and the exterior environment. This is not suggested or disclosed by Hisanaga which does not provide any type of sealing lid. Accordingly, claim 8 should also be patentable over this reference.

As to claim 9, there is no suggestion or disclosure of the recited coupling piece provided by Hisanaga. Accordingly, claim 9 should also be patentable over Hisanaga.

With respect to claim 10, there is no suggestion or disclosure of a heat conducting drive axle in the lid for conducting thermal energy into the test vessel. Accordingly, this claim is also patentable over Hisanaga.

With respect to claims 11-13, these claims depend directly or indirectly from claim 1 and should be similarly patentable over Hisanaga for at least the reasons noted above.

Conclusion

If the Examiner believes that any additional minor formal matters need to be addressed in order to place the present application in condition for allowance, the

Applicant: Franz G. Bucher
Application No.: 10/526,647

Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application, including claims 1-13, is in condition for allowance, and a notice to that effect is respectfully requested.

Respectfully submitted,

Franz G. Bucher

By /Randolph J. Huis/
Randolph J. Huis
Registration No. 34,626
(215) 568-6400

Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103
RJH/dmm